

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DELAGÉ LANDEN FINANCIAL
SERVICES, INC.,

Plaintiff,

TOSHIBA AMERICA MEDICAL
SYSTEMS, INC.

Plaintiff/Intervener,

V.

DESOTO DIAGNOSTIC IMAGING, LLC., et al.

Defendants and Counter-Claimants

CIVIL ACTION NO. 2:02CV2810

DEFENDANTS' SECOND SUPPLEMENT TO PRETRIAL MEMORANDUM

Defendants hereby submit the following objections to the trial exhibit lists of Plaintiff De Lage Landen Financial Services, Inc. (“DLL”) and Plaintiff/Intervenor Toshiba America Medical Systems, Inc. Defendants reserve the right to raise additional objections as appropriate at trial. Defendants also object to all documents that are not and have not been properly authenticated, and to those documents which are subject to Defendants’ pending motions in limine.

Defendants' Specific Objections to DLL's Trial Exhibits

Exhibit No.	Description	Objections
DLL-2	Master Lease	Subject to Defendants' Motion in Limine to Preclude Evidence Related to Master Lease Agreement.
DLL-3	Master Lease Schedule No. 1 and related documents	Subject to Defendants' Motion in Limine to Preclude Evidence Related to Master Lease Agreement.
DLL-4	Guaranty of Lynn Carvel	Subject to Defendants' Motion in Limine to Preclude Evidence Related to Master Lease Agreement.
DLL-5	Guaranty of Randon Carvel	Subject to Defendants' Motion in Limine to Preclude Evidence Related to Master Lease Agreement.
DLL-6	Guaranty of Delta Radiology, P.C.	Subject to Defendants' Motion in Limine to Preclude Evidence Related to Master Lease Agreement.
DLL-7	Guaranty of Zobar Properties, LLC	Subject to Defendants' Motion in Limine to Preclude Evidence Related to Master Lease Agreement.
DLL-28	Letter from J. Chesney to Packer and Tate	Lack of foundation, no authentication, unable to cross-examine.
DLL-29	Letter from Packer to Chesney	Lack of foundation, no authentication, unable to cross-examine. Document not disclosed in discovery.
DLL-30	Letter from Chesney to Packer	Lack of foundation, no authentication, unable to cross-examine. Document not disclosed in discovery.
DLL-31	Letter from Packer to Chesney	Lack of foundation, no authentication, unable to cross-examine. Document not disclosed in discovery.
DLL-43	Photos received in Expert Report of Edward Detwiler	Photos not produced in discovery.
DLL-44	Master Lease Schedule No. 2 with Second Addendum to Master Lease	Subject to Defendants' Motion in Limine to Preclude Evidence

		Related to Master Lease Agreement.
DLL-45	Itemized Statement of Damages	Lack of foundation, no authentication.
DLL-46	McCarter & English Invoices "Redacted"	Lack of foundation, no authentication and incomplete/redacted.

Defendants' Specific Objections to TAMS' Trial Exhibits

Exhibit No.	Description	Objections
TAMS-26	Master Lease Agreement	Subject to Defendants' Motion in Limine to Preclude Evidence Related to Master Lease Agreement.
TAMS-27	Debt Subordination Letter	Subject to Defendants' Motion in Limine to Preclude Evidence Related to Master Lease Agreement.
TAMS-28	Blanket Personal Guaranty of Dr. Lynn Carvel	Subject to Defendants' Motion in Limine to Preclude Evidence Related to Master Lease Agreement.
TAMS-29	Blanket Personal Guaranty of Randon Carvel	Subject to Defendants' Motion in Limine to Preclude Evidence Related to Master Lease Agreement.
TAMS-30	Zobar Properties Guaranty	Subject to Defendants' Motion in Limine to Preclude Evidence Related to Master Lease Agreement.
TAMS-31	Delta Radiology Guaranty	Subject to Defendants' Motion in Limine to Preclude Evidence Related to Master Lease Agreement.
TAMS-32	H&H Systems and Design Record of Conversation with TAMS	Hearsay, relevance.
TAMS-40	AGFA Price Quotation for Desoto	Hearsay, relevance.
TAMS-41	AGFA Quotation/Order Summary	Hearsay, relevance.
TAMS-43	Fax coversheet from Stephen Whitworth H&H Systems and Design to TAMS re Purchase Order for Toshiba PCDU's	Hearsay, relevance.
TAMS-50	TAMS Installation Progress Form re Excelart	Relevance.

TAMS-52	H&H Systems and Design Record of Conversation with TAMS re rooms not ready for install	Hearsay, relevance.
TAMS-55	X-Ray Journal	Subject to Confidentiality Stipulation and Protective Order.
TAMS-56	Nuc. Med Journal	Subject to Confidentiality Stipulation and Protective Order.
TAMS-58	Patient Log	Subject to Confidentiality Stipulation and Protective Order.
TAMS-111	Payment from Desoto to TAMS for broken phantom	Relevance.
TAMS-117	Patient Log	Subject to Confidentiality Stipulation and Protective Order.
TAMS-118	Patient Log	Subject to Confidentiality Stipulation and Protective Order.
TAMS-126	Letter from Michael Smith to Dr. and Randon Carvel and Paul King	Misleading, incomplete, authentication, lack of foundation, hearsay, unsigned.
TAMS-157	DDI Financial Statements prepared by Rhea & Ivy	Relevance as to financial statements including time period after February 2002.
TAMS-158	Desoto Log	Relevance, lack of foundation.
TAMS-174	Michael O'Barr statements re events at DDI on 2/25/02	Lack of foundation, authentication, unsigned, no evidence of author, hearsay.
TAMS-180	Leasing Schedule and Master Lease Agreement for Siemens MRI; Contract Addendum and other documents	Subject to Defendants' Motion in Limine to Preclude Evidence Related to Master Lease Agreement.
TAMS-239	Hand written notes re: Desoto	Relevance, legibility, lack of foundation, unsigned, no evidence of author, hearsay.
TAMS-245	DDI Financial Statements prepared by Rhea & Ivy	Relevance as to financial statements including time period after February 2002.
TAMS-267	DDI Financial Statements prepared by Rhea & Ivy	Relevance as to financial statements including time period after February 2002.
TAMS-285	Desoto Diagnostic Imaging Tax Returns for 1999 and 2000	Relevance.
TAMS-286	Desoto Diagnostic Imaging Tax Returns for 2001 and 2002	Relevance as to tax returns including time period after February 2002.
TAMS-314	Patient log of replacement images	Relevance.

Defendants also hereby submit the following second supplement to their trial exhibit list:

Exhibit No.	Document	Disclosure
546	SEG Components by Item	TAMS 2021 – 2024
547	CA-Collection Management Collection History	DLL 001045 – 001054
548	Lindgren documents	DDI 007687 – 007692
549-1 through 549-48	Exhibits to Deposition of Mike O’Barr	O’Barr #1 – O’Barr #48
550	Note from Jerry Smith	DDI 8600

Respectfully Submitted,

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Attorneys for Defendants
 DeSoto Diagnostic
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Dated: May 16, 2004

CERTIFICATE OF SERVICE

I certify that I am this day serving a copy of the attached Defendants' Second Supplement To Pretrial Memorandum upon the persons and in the manner indicated below:

Service by *electronic mail* to:

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Dated: May 16, 2004